IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE ELEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 10323 of 1996

Between:

S.K.R.B.R. College, Narsaraopet, Guntur Dist, rep. by its Secretary and Correspondent,
Sri. D. Krishna Reddy.

..... PETITIONER

AND

1 State of A.P., rep. by its Principal Secretary, Education Dept, Secretariat Building, Hyderabad.
2 Regional Joint Director of Higher Education, Guntur.
3 Sri. S.V. Krishna Reddy, s/o. Kothi Reddy, formerly Jr. Asst., S.K.R.B.R. College, Narasaraopet.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, one in the nature of mandamus (i) declaring the G.O. Rt.No. 582 Education (CE-II) Dept dt. 20.5.1996 as illegal arbitrary and without jurisdiction and set aside the same (ii) to grant such other relief or reliefs as this Hon'ble Court may deem fit and proper.

Counsel for the Petitioner: MR.V.JOGAIAH SARMA

Counsel for the Respondent Nos.1 & 2: G.P. for Higher Education.

Counsel for the Respondent No.3: Mr. T. Suryakaran Reddy, Advocate for Mr. Koti Reddy Idamakanti, Advocate

The Court made the following:

:ORAL ORDER:

The management of the S.K.R.B.R. College, Narsaraopet, Guntur district (for short 'the College') has filed this writ petition challenging the order of the State Government in G.O.Rt. No.582 Education (C.E.-II) Department dated 20-05-1996 (for short 'G.O.Rt.No.582') whereby the appeal of the 3rd respondent instituted under Section 81 (3) of the Andhra Pradesh Education Act, 1982 (for short 'the Act') was allowed, the order of the Regional Joint Director of Higher Education, Guntur (for short 'the RJD') dated 28-02-1992 was set aside and the writ petitioner-Management directed to reinstate the 3rd respondent herein into service with immediate effect, to treat the break period (during which he was out of service consequent on his removal from service) as on duty and to pay his salary and allowances from the management fund. The Government order also observed that allowing of the appeal did not preclude the management from taking up a fresh inquiry in accordance with the provisions of the Act and Rules, against the 3rd respondent.

The 3rd respondent was a Junior Assistant in the petitioner-College. On 24-02-1991 a charge memo was issued listing out allegations of mis-appropriation of College funds as enumerated in the charge memo. The petitioner submitted his explanation. Another charge memo dated 01-03-1991, called a supplementary charge memo, was issued alleging that the 3rd respondent had failed to maintain certain mandatorily maintainable registers with a view to conceal the mis-appropriation of amounts by him. The Vice President of the educational society, under whose administrative control the petitioner-college was functioning, was appointed as an

inquiry officer. After a due process of inquiry, by the proceedings of the management of the College dated 17-06-1991 the 3rd respondent was inflicted the penalty of removal from service after obtaining the prior permission of the competent authority as required under Section 79 of the Act.

Aggrieved, the 3rd respondent preferred an appeal to the RJD under Section 80 of the Act. The RJD, by the order dated 28-02-1992 rejected the appeal. The 3rd respondent then preferred an appeal to the State Government under Section 81(3) of the Act against the orders of the RJD confirming the orders of the removal passed by the management-College. In purported exercise of appellate powers under Section 81 (3) of the Act, the State Government passed the impugned order allowing the second appeal of the 3rd respondent. Paragraph Nos. 1 to 3 of the impugned order set out the chronology of events leading to the filing of the appeal before it and the procedures followed in the appeal. Paragraph No.5 is the operative portion of the appeal. Paragraph No.4 contains the reasons recorded by the State Government for allowing of the appeal. The reasons recorded by the State Government in Paragraph No.4 of the impugned order are:

> *"The case has been examined in detail and the documents perused. The Enquiry Officer in this case was the Vice-President of the College governing body. As per Rule 7(2) of the A.P. Private Institutions Employees (Dis. Control) Rules, 1983, it is necessary that the Enquiry Officer should be superior in rank to the individual against whom the enquiry is being conducted. The question of superior in rank arises in the case of a person holding a post either under the same institution or other such institution of the same management. The Vice-President of the College governing body, quite evidently, does not hold any post in the institution and cannot therefore be construed to be an authority superior in rank to the charged person Sri S.V. Krishna Reddy. Thus the entire enquiry stands vitiated. It is also noted that the individual had made a specific request for the change of the Enquiry Officer, but this was not agreed to."*

As is apparent, the singular ground on which the appeal was allowed is that the management had delegated the power of conducting the inquiry against the 3rd respondent to the Vice President of the College governing body. The appointment of the Vice President, as an inquiry officer, was incompetent apropos the provisions of Rule 7 (2) of the Andhra Pradesh Private Institutions Employees (Disciplinary Control) Rules, 1983 (for short the 'Rules'). According to the State Government, as

the Rule requires the inquiry officer to be superior in rank to the individual against whom an inquiry is being conducted, the inquiry officer could only be a person holding a post either in the same institution or other such institution under the same management. As the Vice President of the College governing body was not a person holding a post in the educational institution, he could not be said to be holding a rank superior to the 3rd respondent, is the implied premise. Another *ex-cathedra* statement is also found in the Paragraph No.4 of the impugned order with regard to the 3rd respondent having made a specific request for a change of the inquiry officer, which was, however, not acceded to by the management. As the State Government has not recorded a conclusion as to whether the refusal by the management, was a valid conduct of the management, this sentence in Paragraph No.4 of the impugned order must be construed a mere observation of fact. On a true and fair construction of the impugned order, the State Government must be held to have invalidated the disciplinary inquiry and the consequent penalty imposed on the 3rd respondent on the singular ground that the inquiry officer appointed by the management to conduct the inquiry against the 3rd respondent was incompetent to do so in view of the provisions of Rule 7(2) of the Rules.

The writ petitioner-Management takes umbrage at this conclusion of the State Government. Mr. Jogaiah Sharma learned counsel for the writ petitioner urges three principal grounds against the impugned order; (a) that the Vice President of the College governing body cannot be considered as not being superior in rank to the 3rd respondent, who is only a Junior Assistant in the College. The Vice President of the College governing body is not an outsider or interloper *qua* the educational institution. Having regard to his status in College governing body, he ought to have been held to be superior in rank to the 3rd respondent; (b) Even if the Vice President of the College governing body were held to be technically incompetent to have conducted the inquiry *qua* Rule 7(2), as his report of inquiry was considered by the disciplinary authority, no prejudice has been caused to the 3rd respondent and a mere technical irregularity in the composition of the inquiry authority, who is conceptually a delegate of the disciplinary authority, could not result in the invalidation of the disciplinary proceedings and (c) that the exercise of power by the Government in the impugned order is beyond contours of the appellate power consecrated to the Government under Section 81 (3) read with Section 82 of the Act.

In addition, on behalf of the writ petitioner-management, it is contended that after the removal of the 3rd respondent from service, the college-management had not drawn the grant-in-aid for the 3rd respondent. In case, the order of the Government is to be sustained on merits, nevertheless the operative portion of the order, which requires consequential monetary benefits to be paid to the 3rd respondent from out of the management's funds, may be set aside by this court and in fairness and equity, the State Government be directed to release the grant-in-aid for the purpose of paying the salary and emoluments to the 3rd respondent for the period he was out of service on account of the order of removal passed in the disciplinary inquiry.

Learned Government Pleader for Higher Education and Mr. Suryakaran Reddy, learned counsel appearing for the 3rd respondent have urged that the impugned order of the State Government is impeccable and warrants no interference. It is their synoptic submission (a) that 'rank' is an expression denoting a status in an identifiable hierarchy whether in the service, the institution or any other association of persons. In the context of an educational institution's employee being proceeded against in a domestic inquiry, 'rank' is an expression employed in Rule 7(2) of the Rules to denote the 'rank' (of the inquiry officer) in the hierarchy of the educational institution viz., the writ petitioner-College. In specie, it is contended that where the governing body of the College, which is a body of the educational society, is competent to function as a disciplinary authority, but does not itself conduct the inquiry and chooses to appoint an inquiry officer to conduct the inquiry, such inquiry officer, who is a member of the governing body is a person not in the hierarchy of the establishment of the College, superior in rank to the charged officer within such hierarchy. The Vice President does not qualify to be characterized as superior in rank to the petitioner in the hierarchy of the College service and therefore he was incompetent as rightly concluded by the State Government, is the substance of the contention urged on behalf of the State and the 3rd respondent.

Regarding the scope of the appellate power of the State Government under Section 81(3) of the Act, it is contended on behalf of the respondents that appellate interference by the State Government by the impugned order could be sustained within the contours of the appellate power vouchsafed in Section 80(2)(c)of the Act viz., interference where the order appealed against is 'perverse or arbitrary'.

Alternatively, it is contended that apart from the appellate power consecrated to the State Government under Section 81 of the Act, a wide spectrum of revisional power inheres in the State Government under Section 90 of the Act, which enables interference where the order of an educational institution or of an authority, officer or person is vitiated on grounds of regularity, correctness, legality or propriety of the decision or order of such authority, officer, institution. The wider power under Section 90 of the Act available to the State Government should be held to validate any limitation on the appellate power of the State Government under Section 81 (3) of the Act, is the submission on this aspect of the matter.

With regard to the other contention of the writ petitioner as to the prejudice aspect, it is contended on behalf of the respondents that violation of Rule 7(2) itself constitutes prejudice, as the statutory provisions are mandatory and offer the only procedural and structural safeguard against abuse or irrelevant use of disciplinary power.

The relevant statutory architecture: Section 81 of the Act sets out the contours of the appellate power of the State Government. Under Sub-section (1) either an employee or the management when aggrieved by the order of a competent authority passed under Sub-section (2) of Section 80 of the Act, may prefer an appeal to the State Government. Sub-section (3) of Section 81 of the Act enacts that the powers exercisable and procedure to be followed by the Government while exercising the power under Section 81 of the Act, shall be the same as that of the competent authority under Section 80 of the Act. Section 80 of the Act enumerates the areas and circumstances wherein an employee may prefer an appeal against an order of dismissal, removal or reduction in rank, to the competent authority. Sub-section (2) of Section 80 of the Act sets out the scope of the appellate power of the competent authority. As it is relevant to the *lis* on hand, it is necessary to extract the provisions of Sub-section (2) of Section 80 of the Act, which read as under:

> *"(2) The competent authority **shall not interfere** with the order appealed against **unless** the order is vitiated on any one or more of the following grounds namely:*
>
> a. *that there is no material to substantiate the charge or charges framed against the employee; or*
>
> b. *that the authority who passed the order acted with bias or mala fides; or*

c. *that the order is perverse or arbitrary; or*

d. *that no reasonable opportunity has been afforded to the employee to prove his innocence:*

Provided that the competent authority shall not pass any order prejudicial to the management unless an opportunity of making a representation is given. (emphasis).

On a true and fair construction of the phraseology of Sub-section (2) of Section 80 of the Act, it is apparent that only a limited power of interference is consecrated, on the competent authority as well as the State Government. The limitation on the appellate powers of the competent authority and the State Government is emphasized by specific phraseology employed: 'shall not interfere', 'unless' the order appealed against is vitiated on any one or more of the grounds specified in the provision. Clause (a) of Sub-section (2) of Section 80 of the Act enables interference where the conclusion of guilt is based on 'no evidence'; Clause (b) enables interference where the decision/conclusion of the disciplinary authority is vitiated by bias or *mala fides*. Clause (c) permits interference only when the order appealed is perverse or arbitrary and clause (d) enables appellate interference where the charged employee was denied reasonable opportunity to establish his innocence. All the above clauses explicate a class of infirmities in the disciplinary proceedings distinct from a mere technical infirmity in the choice of a person to conduct the inquiry or some defect in the composition of the body, which has inflicted the penalty consequent on a disciplinary inquiry. The legislative emphasis appears to provide appellate remedies where material prejudice is caused to a valuable right of an employee, such as a conclusion of guilt having been arrived at on the basis of 'no evidence' on the relevant facts having been analyzed by a mind, which is not neutral, the conclusion or any process of the disciplinary inquiry being vitiated by perversity or arbitrariness (which is again a quality of mind) or deprivation of the charged employee of a reasonable opportunity to establish his innocence.

The competent authority or the State Government, while exercising appellate powers under Section 80 or Section 81 of the Act, exercise quasi-judicial powers, not uncanalised but within the limits of the Act. They are not

tribunals of unlimited jurisdiction. The appellate power is limited by the specific legislative grant. It is impermissible to convert a limited jurisdiction and power into an extravagant or uncanalised jurisdiction to scrutinize and interfere on all the parameters on which a common law adjudicatory authority could exercise appellate powers. Any transgression of the limits of jurisdiction by the competent authority or appellate authority would constitute a transgression of the limitations explicated by the specific provisions of Section 80(2) of the Act. Any order vitiated by extravagant exercise of non-existent jurisdiction would be invalid and liable to be interdicted by this court under Article 226 of the Constitution of India.

In the considered view of this court, the appellate power of the State Government or of the competent authority, in the context of the presents of Section 80(2) of the Act, does not enable interference, except on the specific grounds set out in clauses (a) to (d) of Sub-section (2) of Section 80 of the Act.

As the power of the State Government under Section 80(1) of the Act is a power of appellate scrutiny against an order of the competent authority under Section 80 of the Act, the powers of appellate scrutiny of the State Government are limited to any infirmities in the order of the competent authority considered within the context of Section 80(2) of the Act, viz., that the order of the competent authority is vitiated on account of any of the grounds in clauses (a) to (d) of Sub-section (2) of Section 80 of the Act. If the order of the competent authority under Section 80 of the Act is vitiated for not properly scrutinizing the order of disciplinary authority for any of the specified infirmities, then alone is the State Government empowered to interfere in appeal under Section 81 of the Act. Incompetence of an inquiry officer, the principal and singular ground of attack, is not one of the circumstances/grounds on which appellate scrutiny is available either under Section 80(2) and 81(3) of the Act.

The other contention urged on behalf of the respondents (to sustain the impugned order) is that a wider power of revision is available to the State Government under Section 90 of the Act and therefore that wider power available under Section 90 of the Act would feed the limited power under Section 81 of the Act. This contention does not commend acceptance by this

court. On its terms, the revisional power of the Government under Section 90 of the Act is an extraordinary power. The power could be exercised either on an application from any interested person or *suo motu*. Such power, it must be held, is not available where a specific appellate remedy is available under the provisions of the Act. Section 81 of the Act enables a specific appellate remedy either to an employee or to the management when aggrieved by an order of the competent authority under Section 80 of the Act. Such an appeal may be preferred within the periods specified in Section 81 of the Act. The powers and procedures that are required to be followed by the Government, while acting under Section 80(1) of the Act, are also specified by reference to powers conferred on the competent authority under Section 80 of the Act. In the context of the specific appellate powers under Sections 80 and 81 of the Act, the validity of the exercise of the appellate power by the State Government (Under Section 81 of the Act) should be tested only within the contours of the power granted to the State Government under Section 81 of the Act. The exercise of power conferred on the Government under Section 81 of the Act as well as the wider revisional power under Section 90 of the Act are distinct grants of quasi judicial power. Each of these powers constitute an insular and distinct grant of power. The power under Section 81 of the Act can be exercised only within the limits specified in Sub-section (2) of Section 80 of the Act in an appeal preferred by an aggrieved employee or an aggrieved management. Section 90 of the Act is more in the nature of a general power of superintendence to correct aberrations in exercise of power by an educational institution or any authority, officer or person. It is not permissible, in the considered view of this court, to liberate the State Government from the limitations of power explicated by the express language of Sub-section (2) of Section 80 of the Act by reference to the 'wider power' in Section 90 of the Act. Such a construction or process of interpretation would render otiose the legislative instruction in Sub-section (3) of Section 81 of the Act viz., that the appellate power of the State Government shall be the same as that of the competent authority under Section 80 of the Act. In view of an interactive analysis of provisions of Sections 80, 81 and 90 of the Act, it is legitimate to infer that the appellate power of the State Government under Section 81 is of a limited character, which does not in the plenitude or canvas of the power under Section 90 of the Act. The contentions, on behalf of the

respondents, in this regard, do not commend acceptance by this court.

Disciplinary power is an administrative power. This is so notwithstanding that the disciplinary enquiry process is a quasi-judicial process. It is a settled principle that it is competent for a disciplinary authority, in the absence of any specific prohibition or restriction under a legislation or statutory rule, to delegate the conduct of a disciplinary enquiry to any person or authority which the choice of the disciplinary authority vide *PRADYUT KUMAR BOSE Vs. THE HON'BLE CHIEF JUSTICE OF CALCUTTA HIGH COURT* ([1]); *SARAN MOTORS PVT., LTD., NEW DELHI Vs. VISHWANATH AND ANOTHER* ([2]); *STATE OF M.P. AND OTHERS Vs. SHARDUL SINGH* ([3]); *P.V. SRINIVASA SASTRY AND OTHERS Vs. COMPTROLLER & AUDITOR GENERAL AND OTHERS* ([4]); and *DIRECTOR GENERAL, ESI AND ANOTHER Vs. T. ABDUL RAZAK* ([5]). Rule 7 of the Rules to the extent necessary and material for the purpose of this *lis* read as under:

> *7. (1) No employee shall be dismissed, removed or reduced in rank by an authority subordinate to the management of the private institution.*
>
> *(2) In every case, where it is proposed to impose any of the penalties specified in sub-section (1) of Section 79, the grounds on which it is proposed to take action shall be reduced to the form of a definite charge or charges, which shall be communicated to the person charged together with a statement of the allegations on which each charge is based and of any other circumstances, which it is proposed to take into consideration in passing orders in such case. He shall be required within a reasonable time, to put in a written statement of his defence and to state whether he desires an oral inquiry or only to be heard in person. For the purpose of preparing his defence, the charged person may be permitted to inspect and take extracts from such records as he may specify, provided that the management may for reasons to be recorded in writing refuse such permission, if in its opinion, such records are not relevant for the purpose or it is against the interests of the institution to allow access thereto.*
>
> *If an oral inquiry is desired by the person charged, the management shall appoint an inquiring authority, who shall be superior in rank to the charged person, to conduct the enquiry. At that inquiry oral evidence may be heard as to such of the allegations as are not admitted and the person charged shall be entitled to cross-examine the witnesses to give evidence in person and to have such witnesses called as he may*

wish, provided that the authority conducting the inquiry may, for special and sufficient reasons to be recorded in writing, refused to call a witness."

It is clear that the disciplinary power including the power to impose the penalty of dismissal or removal on an employee of a private educational institution is conferred on the management of the institution. Sub-rule (2) of Rule 7 of the Rules ordains that where an oral inquiry is desired by a person charged, the management shall appoint an inquiring authority, who shall be superior in rank to the charged person, to conduct the inquiry. In some instances, an employee of educational institution may be appointed by an authority. Nevertheless, it is only the management or an authority not subordinate to the management that could exercise the powers of dismissal or removal. The management is, therefore, considered under the Rules as a superior to every employee of the educational institutions. To characterize the member of the governing body of the College viz., the Vice President as an authority extraneous to the educational institution or not being superior in rank to the 3rd respondent, who was only a Junior Assistant in the College, is incongruous to the text, structure and the scheme of Rule 7 of the Rules.

Mr. Suryakaran Reddy, the learned counsel for the 3rd respondent has relied on the following authorities to contend that the appointment of the Vice President as an 'inquiry officer' is a violation of Rule 7(2) of the Rules and the Vice President was incompetent to have functioned as an 'inquiry officer'.

In *G. CHANDRAKANTH Vs. GUNTUR Dt. MILK PRODUCERS' UNION Ltd.*, (6), this Court was considering the validity of a disciplinary inquiry where an advocate was appointed as an inquiry officer. Bye-law 27 (2) of the Bye-laws of the respondent-Dairy enabled the competent /disciplinary authority to itself conduct the inquiry or subject to the order of the Managing Director appoint any other authority superior in rank to the employee charged to conduct an inquiry. The expression authority superior in rank to the employee charged in Bye-law 27 of the Bye-laws was substantially similar to Rule 7 (2) of the Rules falling for consideration in this case. The employee of the Dairy, who suffered a punishment consequent on the disciplinary inquiry conducted by an advocate, challenged the inquiry and punishment *inter alia* on the ground that an advocate was incompetent to have

conducted the inquiry in view of the provisions of the governing bye-laws. A learned single Judge of this court held that bye-law 27 (2) does not permit the appointment of an outsider as an inquiry officer. Domestic inquiry may be held by the appointing authority or any other authority superior in rank to the employee charged, subject to the order of the management, ruled this court. The decision of this court supra must be understood in the context of the factual circumstances viz., an advocate who was in no way integrally or intrinsically involved in the management or administration of the Dairy was appointed as an inquiry officer in a context where the bye-laws mandated an inquiry officer to be superior in rank to the charged employee. 'Rank' necessarily had to be understood in the context of the institution and an advocate not being an integral part of the establishment of the Dairy. Therefore, he could not be considered as holding any 'rank' in the institution, which could further be scrutinized as to its superiority or otherwise vis-à-vis the charged officer. In the case on hand, the Vice President of the governing body of the College is not an alien to the educational institution. He is a competent of the management structure of the educational society and under whose administrative control the educational institution functions.

Two other decisions relied on behalf of the 3rd respondent are (a) the decision of a Constitution Bench of the Supreme Court in *HIGH COURT, CALCUTTA vs., AMAL KUMAR* ([7]) and (b) *RAM PRAKASH AGNIHOTRI Vs. DISTRICT JUDGE U.P. AND OTHERS* ([8]). The expression 'rank' in the context of Article 311 (2) of the Constitution of India fell for interpretation in both the above decisions. In *Amal Kumar Roy's* case (supra) on account of the non-consideration by the High Court of a District Munsif's case for promotion to the category of Subordinate Judge, his juniors in the cadre of District Munsif superceded him for promotion. He was later promoted but in the interregnum, he lost some places in the seniority of Subordinate Judges. *Inter alia*, the aggrieved employee contended that the consequent loss of certain places in the cadre of Subordinate Judge amounted to reduction of rank within the meaning of Article 311 (2) of the Constitution of India. Negativing the contention, the Supreme Court held that loosing some places in the seniority list does not *ipso facto* tantamount to reduction in rank and that the provisions of Article 311 (2) of the Constitution of India were not attracted.

I n *Ram Prakash Agnihotri's* case (supra), a Stenographer Grade-I was reduced to the rank of a Clerk/Typist pursuant to a departmental inquiry. He

challenged the penalty, *inter alia*, on the ground that he could not be reduced to a rank lower than the hierarchy. The Supreme Court held that the punishment of reduction in rank could only be to the next lower rank in the hierarchy and not outside the posts in the hierarchy and that the reduction of the employee, a Stenographer Grade-I, to the rank of a Clerk/Typist was invalid and that he could have been only reduced to the rank of Stenographer Grade-II.

Both the above decisions involve interpretation of the expression 'rank' in the context of Article 311 (2) of the Constitution of India, where reduction in rank as a measure of penalty is the subject matter of the constitutional protection. It is axiomatic that rank in respect of a serving officer denotes a position in the hierarchy of the service either in the cadre or category of the service. The expression 'rank' used in Rule 7 (2) of the Rules, however, cannot be considered as limited to the hierarchy of the establishment of the educational institution alone. The process of interpretation of a Statute or a Rule is not an exercise in mere semantics. It is not a mere exercise of identifying one of the dictionary meanings among the possible choices of a pluri-signatory expression. The words are used or regulation is framed for a specific purpose to sub-serve the public or community interest. The philosophy underlying the mandate in Rule 7(2) of the Rules that the inquiry officer should be superior in rank to a charged employee of an educational institution is to ensure that the charged employee of an educational institution should not be subjected to inquiry by a person outside the institutional framed work or by a person holding a rank discernibly inferior to the charged officer. The expression 'rank' occurring in Rule 7(2) of the Rules is not identical in context to the expression 'rank' in Article 311 (2) of the Constitution of India.

On the above analysis, this court finds no infirmity in the conduct of the disciplinary inquiry against the 3rd respondent by the Vice President of the governing body of the College. On the aforesaid analysis and conclusions, it is not necessary to consider whether as the petitioner suffered no prejudice by the Vice President of the College governing body acting as the inquiry officer, the disciplinary inquiry should have been interfered with by the State Government, even if the inquiry officer was technically incompetent to have conducted the inquiry under Rule 7(2) of the Rules. As this court has come to the conclusion that the Vice President was competent to act as an inquiry officer, this aspect of the matter needs no consideration.

On the analysis above, the order of the State Government impugned herein is unsustainable. The conduct of the disciplinary inquiry against the 3rd respondent by the Vice President of the College governing body is not invalid for being in violation of Rule 7 (2) of the Rules. The impugned order of the State Government is also beyond the appellate powers qua Section 81(3) read with Section 82 of the Act.

It is urged by Mr. T. Suryakaran Reddy, learned counsel for the 3rd respondent that the 3rd respondent had in his appeal before the 1st respondent under Section 81(3) of the Act urged other grounds against the order of the disciplinary authority. The State Government, however, did not consider these contentions of the 3rd respondent in view of its finding that the appointment of the inquiry officer was in contravention of Rule 7(2) of the Rules. As this court has concluded that the impugned order of the State Government is invalid, it is but equitable to remand the matter to the State Government for consideration of the other contentions of the 3rd respondent, is the plea on behalf of the said respondent. This contention of the 3rd respondent is worthy of consideration.

The writ petition is accordingly allowed. The order of the 1st respondent in G.O.Rt.No.582 Education (C.E.—II) Department dated 20-05-1996 is unsustainable and is quashed. The 1st respondent shall now dispose of the appeal preferred by the 3rd respondent against the order of the RJD dated 28-02-1992, on merits and consistent with the finding herein that the appointment of the Vice President of the College governing body to act as an inquiry officer is competent and the inquiry is not vitiated on that account. The appeal of the 3rd respondent shall be considered by the State Government within the limits of its jurisdiction under Section 81 of the Act as spelt out in this judgment. Having regard to the fact that the proceedings are pending for a considerable length of time, the 1st respondent may consider disposing of the appeal expeditiously and in any event within a period of three (3) months from the date of receipt of a copy of this order. No costs.

GODA RAGHURAM, J

Dt. 11-08-2004

Pvks/*

LR copy to be marked: Yes.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Wednesday, the Eleventh day of August, Two thousand and Four.

Sd/-

Assistant Registrar.

To

1. One Fair copy to the Hon'ble Mr. Justice GODA RAGHURAM for his lordship's kind perusal.

2. The Principal Secretary, Education Dept, State of A.P., Secretariat Building, Hyderabad.
3. The Regional Joint Director of Higher Education, Guntur.

4.2CCs to the Government Pleader for Higher Education, A.P. High Court Buildings, Hyderabad (OUT).

5. Eight (8) L.R. Copies.

6. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.

7. The Secretary, A.P. Advocates Association Library, High Court Buildings, Hyderabad.

8.2CD copies